



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 24, 1998

Ms. Donna Garcia Davidson  
Assistant General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR98-2296

Dear Ms. Davidson:

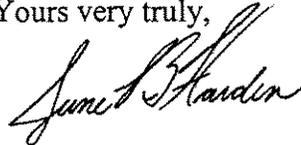
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118490.

The Office of the Governor (the "office") received a request for "all correspondence to or from Texas Agriculture Commissioner Rick Perry on file with your agency." You have submitted a copy of a draft document which you claim is excepted from disclosure under section 552.111 of the Government Code. You state that all other responsive materials, including a copy of the draft document in final form, have been released. We have considered the exception you claim and reviewed the submitted document.

Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Furthermore, in Open Records Decision 559 (1990), this office concluded that a preliminary draft of a document that is intended for public release in final form necessarily represents the advice, opinion, and recommendation of the drafter as to the form and content of the final document and as such could be withheld pursuant to the statutory predecessor to section 552.111. Thus, section 552.111 also excepts draft documents to the extent that the draft documents pertain to the policymaking function of the governmental body. After careful review, we agree that the submitted document may be withheld under section 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 118490

Enclosures: Submitted documents

cc: Mr. Royce Meyer  
1401 Nueces  
Austin, Texas 78701  
(w/o enclosures)